



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-044]

1,1,1,2-Tetrafluoroethane (R-134a) from the People's Republic of China: Preliminary Determination of Sales at Less-Than-Fair Value and Affirmative Determination of Critical Circumstances, in Part, and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

SUMMARY: The Department of Commerce ("Department") preliminarily determines that 1,1,1,2-Tetrafluoroethane ("R-134a") from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"). The period of investigation ("POI") is July 1, 2015, through December 31, 2015. The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. The final determination will be issued 75 days after publication of this preliminary determination in the *Federal Register*. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Keith Haynes or Paul Stolz, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5139 or, (202) 482-4474 respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The product subject to this investigation is 1,1,1,2-Tetrafluoroethane, R-134a. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix I.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Tariff Act of 1930, as amended (“the Act”). We calculated export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, normal value (“NV”) was calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum hereby adopted by this notice.¹ The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“ACCESS”). ACCESS is available to registered users at <https://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Affirmative Determination of Critical Circumstances

On September 9, 2016, Petitioners filed a timely critical circumstances allegation pursuant to section 733(e)(1) of the Act and 19 CFR 351.206 with respect to imports of the

¹ *See* “Decision Memorandum for Preliminary Determination for the Antidumping Duty Investigation of 1,1,1,2-Tetrafluoroethane (R-134a) from the People’s Republic of China,” dated concurrently with this notice (“Preliminary Decision Memorandum”).

subject merchandise.² We preliminarily determine that critical circumstances exist for the non-selected separate rate respondents and the PRC-wide entity, but do not exist for the mandatory respondent, Zhejiang Sanmei Chemical Industry Co., Ltd.³ For a full description of the methodology and the results of our analysis, *see* the Preliminary Decision Memorandum.

Use of Adverse Facts Available

The Department preliminarily finds that the PRC-wide entity, which includes certain PRC exporters and/or producers that did not respond to the Department's requests for information, withheld information requested by the Department and significantly impeded this proceeding by not submitting requested information. Specifically, 26 companies within the PRC-wide entity failed to respond to the Department's request for quantity and value ("Q&V") information.⁴ Furthermore, the Department finds that the PRC-wide entity's lack of participation, including the failure of certain parts of the PRC-wide entity to submit Q&V information, constitutes circumstances under which it is reasonable to conclude that the PRC-wide entity as a whole failed to cooperate to the best of its ability to comply with the Department's request for information.⁵

Therefore, we preliminarily find that an adverse inference is warranted in selecting from among the facts otherwise available with respect to the PRC-wide entity in accordance with sections 776(a) and 776(b) of the Act and 19 CFR 351.308(a). As adverse facts available, we have preliminarily assigned the PRC-wide entity a rate of 187.71 percent. Further, with respect to critical circumstances, we have preliminarily determined, again, based on adverse facts

² *See* Petitioners' letter, "1.1.1.2 Tetrafluoroethane (R-134a) from the People's Republic of China: Critical Circumstances Allegation," dated September 9, 2016.

³ *See* Preliminary Decision Memorandum at "Application of Facts Available and Adverse Inferences."

⁴ *Id.*

⁵ *See Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (noting that the Department need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (*i.e.*, information was not provided "under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.")).

available, that the PRC-wide entity dumped “massive imports” over a “relatively short period.”

For further explanation and analysis, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice*,⁶ the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.⁷

Preliminary Determination

The preliminary weighted-average antidumping duty (“AD”) margin percentages are as follows:

Exporter	Producer	Weighted-Average Margin (percent)
Zhejiang Sanmei Chemical Industry Co., Ltd.	Zhejiang Sanmei Chemical Industry Co., Ltd. and Jiangsu Sanmei Chemicals Co., Ltd.	137.23
Jiangsu Bluestar Green Technology Co., Ltd.	Jiangsu Bluestar Green Technology Co., Ltd.	137.23
T.T. International Co., Ltd.	Electrochemical Factory of Zhejiang Juhua Co., Ltd.	137.23
T.T. International Co., Ltd.	Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.	137.23
T.T. International Co., Ltd.	Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd.	137.23
T.T. International Co., Ltd.	Zhejiang Sanmei Chemical Ind. Co., Ltd.	137.23
T.T. International Co., Ltd.	Zhejiang Zhonglan Refrigeration Technology Co., Ltd.	137.23
Weitron International Refrigeration Equipment Co., Ltd.	Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.	137.23

⁶ *See 1,1,1,2-Tetrafluoroethane (R-134a) from the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 18830 (April 1, 2016) (“*Initiation Notice*”).

⁷ *See* Enforcement and Compliance’s Policy Bulletin No. 05.1, regarding, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,” (April 5, 2005) (“Policy Bulletin 05.1”), available on the Department’s Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Exporter	Producer	Weighted-Average Margin (percent)
Weitron International Refrigeration Equipment Co., Ltd.	Weitron International Refrigeration Equipment Co., Ltd.	137.23
Weitron International Refrigeration Equipment Co., Ltd.	Zhejiang Organic Fluor-Chemistry Plant, Zhejiang Juhua Co., Ltd.	137.23
Weitron International Refrigeration Equipment Co., Ltd.	Zhejiang Quhua Fluor-Chemistry Co., Ltd.	137.23
Weitron International Refrigeration Equipment Co., Ltd.	Zhejiang Quhua Juxin Fluorochemical Industry Co., Ltd.	137.23
Weitron International Refrigeration Equipment Co., Ltd.	Zhejiang Sanmei Chemical Industry Co., Ltd.	137.23
PRC-Wide Entity		188.94

As detailed further in the Preliminary Decision Memorandum, Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd., a mandatory respondent in this investigation, did not demonstrate that it was entitled to a separate rate. Accordingly, we consider this company to be part of the PRC-wide entity.

Suspension of Liquidation

In accordance with section 733(d) of the Act the Department will instruct U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of R-134a from the PRC, as described in the “Scope of the Investigation” in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. We preliminarily find

that critical circumstances exist for imports of R-134a from the PRC produced and exported by the separate rate respondents, and the PRC-wide entity. Accordingly, for the separate rate respondents and the PRC-wide entity, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit⁸ equal to the weighted-average amount by which NV exceeds U.S. price as follows: (1) the cash deposit rate for the exporter/producer combinations listed in the table above will be the rate the Department determines in this preliminary determination; (2) for all combinations of PRC exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the PRC-wide entity; and (3) for all non-PRC exporters of merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case

⁸ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

briefs, may be submitted no later than five days after the deadline date for case briefs.⁹ A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically at Enforcement and Compliance's electronic records system, ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.¹⁰ Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues you intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by Petitioners. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a

⁹ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

¹⁰ See 19 CFR 351.310(c).

final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On September 29, 2016, pursuant to 19 CFR 351.210(b) and (e), Sanmei requested that, contingent upon an affirmative preliminary determination of sales at LTFV for the respondents, the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹¹

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.¹²

International Trade Commission (“ITC”) Notification

In accordance with section 733(f) of the Act, we notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of R-134a, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

¹¹ See Letter from Sanmei, “1,1,1,2-Tetrafluoroethane (R134a) from the People’s Republic of China: Request for Extension to Supplemental Section C&D Response,” dated September 29, 2016.

¹² See also 19 CFR 351.210(e).

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: September 29, 2016.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The product subject to this investigation is 1,1,1,2-Tetrafluoroethane, R-134a, or its chemical equivalent, regardless of form, type, or purity level. The chemical formula for 1,1,1,2-Tetrafluoroethane is $\text{CF}_3\text{-CH}_2\text{F}$, and the Chemical Abstracts Service registry number is CAS 811-97-2.¹³

Merchandise covered by the scope of this investigation is currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) at subheading 2903.39.2020. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

¹³ 1,1,1,2-Tetrafluoroethane is sold under a number of trade names including Klea 134a and Zephex 134a (Mexichem Fluor); Genetron 134a (Honeywell); Freon™ 134a, Suva 134a, Dymel 134a, and Dymel P134a (Chemours); Solkane 134a (Solvay); and Forane 134a (Arkema). Generically, 1,1,1,2-Tetrafluoroethane has been sold as Fluorocarbon 134a, R-134a, HFC-134a, HF A-134a, Refrigerant 134a, and UN3159.

List of Topics Discussed in the Preliminary Decision Memorandum:

- I. Summary
 - II. Background
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 - IV. Period of Investigation
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- [FR Doc. 2016-24358 Filed: 10/6/2016 8:45 am; Publication Date: 10/7/2016]